

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: GUTHRIE TELECOMMUNICATIONS NETWORK, INC.	DOCKET NOS. TCU-01-4 WRU-01-18-3530
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**ORDER APPROVING APPLICATION, CONCURRENCE IN MAPS,
AND GRANTING WAIVER**

(Issued April 30, 2001)

On February 26, 2001, Guthrie Telecommunications Networks, Inc. (Guthrie), filed an application for issuance of a certificate of public convenience and necessity, pursuant to Iowa Code § 476.29 (2001), stating its intention to provide facilities-based and resold local exchange services in the Guthrie Center exchange served by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom). The application has been identified as Docket No. TCU-01-4. Guthrie has provided the qualifications of its company officers and financial statements and commits to providing dialing parity intraLATA and interLATA by implementing a 2-PIC pre-subscription methodology.

Iowa Code § 476.29(2) (2001) provides that the local exchange carrier shall not be denied a certificate if the Utilities Board (Board) finds that the applicant "possesses the technical, financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest."

The Board has reviewed Guthrie's application and finds the necessary technical, financial, and managerial ability to provide local exchange service has been demonstrated. The Board finds that it is consistent with the public interest to approve the application.

Guthrie also states that its service area will mirror the service territory of Iowa Telecom's Guthrie Center exchange and service area maps as they are currently filed and as they may be modified in the future. Iowa Code § 476.29(4) requires that each certificate define the service territory in which land-line local telephone service will be provided and authorizes the Board to promulgate rules establishing requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have on file with the Board maps, which show exchange boundaries. The Board finds that Guthrie has complied with the statutory and rule requirements by concurring in the Guthrie Center exchange maps of Iowa Telecom.

Guthrie has requested that the Board waive the requirements of 199 IAC 22.3(1), requiring it to independently publish a directory. The waiver request was identified as Docket No. WRU-01-18-3530. The Board will grant this waiver since Guthrie does not have a sufficient number of customers to warrant publishing a directory. The Board will require Guthrie to provide customer information to the incumbent carrier for inclusion in the local directory. Guthrie states that it will comply with 199 IAC 16.5(2) and 199 IAC 18.2.

Rule 199 IAC 1.3 states that the Board may grant a waiver if it finds, based upon clear and convincing evidence, that the application of the rule would pose an

undue hardship, the waiver would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver request described above and finds that the waiver meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to 199 IAC 22.3(1) would be an undue hardship on a competitive telecommunications company just beginning to do business in Iowa. It would be an undue hardship for such companies to publish a directory for just their customers. The Board finds there are no substantial legal rights of any person that are affected by this waiver and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantial equal protection for health, safety, and welfare provided since the actions waived will be completed under different circumstances.

Guthrie has not filed proposed tariffs for Board approval setting out the service and rates for providing local exchange service. The Board finds that a certificate should not be issued to Guthrie until it has approved tariffs.

IT IS THEREFORE ORDERED:

1. The application for a certificate of public convenience and necessity filed by Guthrie Telecommunications Network, Inc., on February 26, 2001, is approved, subject to the requirements that follow.

2. The Board will issue a certificate of public convenience and necessity allowing Guthrie Telecommunications Network, Inc., to provide facilities-based and resold local exchange service upon approval of tariffs to reflect the prices, terms, and conditions of local exchange service in Iowa. At the time Guthrie Telecommunications Network, Inc., files proposed tariffs with the Board, it must give notice to all affected local exchange carriers.

3. The concurrence in the maps and boundaries of the Guthrie Center exchange of Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, is approved.

4. The waiver of 199 IAC 22.3(1) is granted as described in this order. Guthrie Telecommunications Network, Inc., shall provide customer-listing information to the incumbent local exchange carrier for inclusion in the local directory.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Judi K. Cooper
Acting Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 30th day of April, 2001.